

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Petition of	)	CSR-_____E
)	
	)	PSID No. 000027
Time Warner Cable Inc.	)	Angelica, Town of NY1917
For Determination of	)	Angelica, Village of NY1330
Effective Competition	)	Avoca, Village of NY0044
	)	Bolivar, Village of NY0594
	)	Canaseraga, Village of NY1799
	)	Canisteo, Village of NY0153
	)	Ceres Township PA3806
	)	Clarksville, Town of NY1707
	)	Cohocton, Village of NY0595
	)	North Hornell, Village of NY0155
)	
	)	PSID No. 002067
	)	Wheeler, Town of NY1610
	)	Caton, Town of NY1375
	)	Dundee, Village of NY1332
	)	Lindley, Town of NY0148

To: Chief, Media Bureau

PETITION FOR SPECIAL RELIEF

Time Warner Cable Inc. ("Time Warner Cable"), by its attorneys, and pursuant to Sections 76.7, 76.905(b) and 76.907 of the Commission's rules,¹ hereby petitions the Commission for a finding that Time Warner Cable's cable television system serving the above-captioned communities (unless otherwise noted, individually "Franchise Area" and collectively "Franchise Areas") is subject to effective competition² and therefore exempt from any rate regulation imposed pursuant to Section 623 of the Communications Act of 1934 (the "Act").³

¹ 47 C.F.R. §§ 76.7, 76.905(b), 76.907.

² Pursuant to Section 76.910 of the Commission's rules, rate regulatory authority may be exercised only by a local franchising authority ("LFA") that has been properly certified. 47 C.F.R. § 76.910. To the extent that any political subdivision covered by this petition is an LFA and has been certified to regulate rates in accordance with the Commission's rules, Time Warner Cable respectfully requests that the Commission revoke such certification

I. TIME WARNER CABLE SATISFIES THE “50/15” OR “COMPETING PROVIDER TEST” IN TEN OF THE FRANCHISE AREAS.

Pursuant to Section 623(a)(2) of the Act,

[i]f the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section.⁴

The Act further provides that a cable system will be considered subject to effective competition (and therefore exempt from rate regulation) under the “50/15” test if, *inter alia*, the franchise area is:

- (i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and
- (ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.⁵

As demonstrated below, effective competition exists in ten of the Franchise Areas (Angelica Village, Avoca, Bolivar, Canaseraga, Canisteo, Caton, Cohocton, Dundee, Lindley and North Hornell) because competing multichannel video programming distributors (“MVPDs”), including direct-to-home (“DTH”) satellite providers such as DirecTV⁶ and DISH Network⁷

pursuant to Section 76.914(c). 47 C.F.R. § 76.914(c). To the extent that franchising responsibilities of any political subdivision covered by this petition have been reassigned to another governmental body, e.g., pursuant to legislation providing for state-issued franchises, then that political subdivision is no longer an LFA and obviously would no longer have rate regulatory authority. In such event, Time Warner Cable is nevertheless seeking an effective competition determination to achieve the full competitive flexibility associated therewith.

³ 47 U.S.C. § 543. Time Warner Cable requests that, consistent with Commission precedent, any FCC grant of effective competition in the Franchise Areas be effective as of the date of filing of this petition. See, e.g., *Altro Communications, Inc. v. Adelphia Communications Corporation*, 17 FCC Rcd 22955, ¶ 5 (Med. Bur. 2002) (Commission order released September 26, 2002 found that Adelphia was subject to effective competition in the Arcadia, California franchise area as of October 1, 2001).

⁴ 47 U.S.C. § 543(a)(2).

⁵ 47 U.S.C. § 543(l)(1)(B); see also 47 C.F.R. § 76.905(b)(2).

⁶ DirecTV is a registered trademark of DirecTV, Inc.

(collectively the “DBS Providers”), are available to more than 50 percent, and are subscribed to by more than 15 percent, of the households in such areas.

A. Competing MVPD Services Are “Offered” in the Franchise Areas.

According to the Commission’s rules, an MVPD’s service is deemed to be “offered” for purposes of effective competition:

- (1) When the multichannel video programming distributor is physically able to deliver service to potential subscribers, with the addition of no or only minimal additional investment by the distributor, in order for an individual subscriber to receive service; and (2) When no regulatory, technical or other impediments to households taking service exist, and potential subscribers in the franchise area are reasonably aware that they may purchase the services of the multichannel video programming distributor.⁸

As demonstrated below, the DBS providers “offer” service in the Franchise Areas under this definition.

1. The DBS Providers are “Physically Able” to Offer Service to Subscribers in the Franchise Areas.

The Commission has repeatedly determined that DBS service is technically available throughout the continental United States due to its nationwide satellite footprint.⁹ Therefore, the DBS Providers are “physically able” to offer service to subscribers in the Franchise Areas.

2. No Regulatory, Technical or Other Impediments to Households Taking the DBS Providers’ Services Exist.

The DBS providers’ services are deemed to be technically available in a franchise area if the footprints of their satellites cover the franchise area and there are no local regulations prohibiting reception by home satellite dishes.¹⁰ As noted above, DBS services have been determined by the Commission to be available throughout the United States. Time Warner

⁷ DISH Network is a registered trademark of EchoStar Communications Corporation.

⁸ 47 C.F.R. § 76.905(e).

⁹ See, e.g., *Bright House Networks, LLC, Petition for Determination of Effective Competition*, Memorandum Opinion and Order, 22 FCC Rcd 4390, ¶ 6 (Med. Bur. 2007) (“*Bright House Networks*”).

¹⁰ *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 5631, ¶ 32 (1993) (“*Rate Order*”).

Cable is aware of no zoning restrictions in the Franchise Areas that would prevent potential subscribers from placing a small dish on their houses or on their properties in order to receive DBS service. Indeed, it would appear that any such restriction would violate Section 207 of the Telecommunications Act of 1996 and Section 25.104 of the FCC's rules promulgated thereunder.¹¹ Further, the DBS providers do not need franchises to offer service to residents in the Franchise Areas. As such, there are no regulatory, technical or other impediments to households taking the DBS providers' service.

3. Potential Subscribers in the Franchise Areas are "Reasonably Aware" That They May Purchase the DBS Providers' Services.

In light of the Commission's prior findings regarding the ubiquitous availability of DBS service, and in recognition of the DBS Providers' extensive national, regional and local advertising and marketing efforts through television and radio, Internet, print media and direct marketing, potential subscribers throughout the Franchise Areas are undoubtedly "reasonably aware" of the availability of the DBS Providers' services.¹² In addition, the Commission has held that the DBS Providers' extensive nationwide subscribership and growth in recent years, combined with a local DTH penetration of more than 15 percent in any given franchise area, is an accurate sign that potential subscribers within that franchise area are "reasonably aware" of the availability of the DBS Providers' services.¹³

¹¹Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *see* 47 C.F.R. § 25.104.

¹² The DBS Providers maintain comprehensive websites, www.dishnetwork.com and www.directv.com, where consumers can learn more about local retail outlets and how to buy the necessary equipment online or through a toll-free number. *See Rate Order* at n. 104 ("[W]e believe that regional or local marketing, such as by a national or regional 800 telephone number, would suffice."). *See also id.* at ¶ 29; *Adelphia Cable Communications*, 20 FCC Rcd 20487, ¶ 6 (Med. Bur. 2005) ("*Adelphia Effective Competition Order*") (There is "no reason to require needlessly fractionalized marketing in order to ensure that a national or regional programming service is available in a particular community... [P]otential subscribers may be made reasonably aware of the availability of a competing service... through advertising in regional or local media, direct mail, or *any other* marketing outlet" (citing *Rate Order* at ¶ 29) (emphasis in original)).

¹³ Indeed, the Commission has "found households in a franchise area to be reasonably aware that they may purchase DBS service solely based on evidence of DBS's nationwide growth and local subscriptions, without reference to advertising or other promotion." *Bright House Networks* at ¶ 6 (referencing *Adelphia Communications, et al., Nineteen Unopposed Petitions for Determination of Effective Competition in Forty-Seven Local Franchise Areas*,

Here, the presence of numerous subscribers of the DBS Providers' services in the Franchise Areas, as shown below, demonstrates that such individuals are all obviously aware of their ability to obtain service from a DBS Provider. Moreover, it is reasonable to assume the awareness of the availability of the DBS Providers' services only continues to increase as additional DBS dishes are prominently installed throughout the Franchise Areas.

Because the three factors described above have been satisfied, the DBS Providers "offer" competing MVPD services in the Franchise Areas.

B. The DBS Providers Offer "Comparable Multichannel Video Programming."

Effective competition exists where programming offered by an MVPD competitor is deemed "comparable" to the programming offered by the unaffiliated cable operator.¹⁴ The programming offered by a competing MVPD is deemed "comparable" if it includes "at least 12 channels of video programming, including at least one channel of nonbroadcast service programming."¹⁵ The Commission's decisions have repeatedly concluded that the DBS Providers satisfy § 76.905(g)'s comparable programming criterion.¹⁶

The programming offered by DirecTV and Dish Network, listings of which are available at www.directv.com and www.dishnetwork.com,¹⁷ includes many of the same popular

Memorandum Opinion and Order, 20 FCC Rcd 7503, ¶ 3 (Med. Bur. 2005)).

¹⁴ 47 U.S.C. § 543(l)(1)(B)(i).

¹⁵ 47 C.F.R. § 76.905(g).

¹⁶ See *ACC Cable Communications, FLA-VA, LLC*, 18 FCC Rcd 7110, ¶ 6 (Med. Bur. 2003) (Town of Lake Waccamaw and Town of Tabor City, North Carolina) ("...the Commission has repeatedly concluded that the programming of DBS providers, such as DIRECTV and Dish, satisfy the Commission's [comparable] programming criterion"); *Adelphia Effective Competition Order* at ¶ 7 ("Because different sets of rules govern which stations cable operators and DBS service providers can or must carry, we have never insisted on absolute parity in station offerings. Instead, an MVPD offers 'comparable programming' if it offers 'at least 12 channels of video programming, including at least one channel of nonbroadcast service programming'"); *Time Warner Entertainment-Advance/Newhouse Partnership*, 20 FCC Rcd 15709, n. 15 (Med. Bur. 2005) (Nineteen California Franchise Areas) ("the DBS providers offer well over 100 channels, most of which are non-broadcast channels," which satisfies the comparable programming criterion).

¹⁷ See *The Helicon Group, L.P.*, 17 FCC Rcd 16636, n. 8 (Med. Bur. 2002) (Barnet, Vermont) ("While Charter did not provide in its Petition a copy of EchoStar's nationwide channel lineup, which is otherwise available at www.dishnetwork.com, we have consistently found that the programming of both DBS providers satisfies the

nonbroadcast and broadcast programming services available on Time Warner Cable’s system serving the Franchise Areas. The DBS Providers’ programming lineups amply demonstrate that at least twelve channels of video programming are offered, including at least one channel of nonbroadcast programming service.¹⁸ Thus, the DBS Providers offer “comparable” multichannel video programming, as defined by the Commission, to actual and potential subscribers in the Franchise Areas.

C. The DBS Providers Offer Comparable Multichannel Video Programming to More Than 50 Percent of the Households in the Franchise Areas.

As noted above, at least one MVPD unaffiliated with the incumbent cable operator must offer comparable video programming to at least 50 percent of the households in a franchise area for the first prong of the 50/15 effective competition test to be met.¹⁹ In numerous effective competition decisions, the Commission has concluded that the DBS Providers are deemed to satisfy this 50 percent threshold due to their nationwide satellite footprints.²⁰ Accordingly, since the DBS Providers offer comparable programming to greater than 50 percent of the households in the Franchise Areas, the first prong of the 50/15 effective competition test is satisfied.

D. The Number of Households Subscribing to the Programming Services of Competing MVPDs Exceeds 15 Percent of the Households in the Ten Franchise Areas.

The subscriber base of any MVPD or MVPDs,²¹ other than the largest MVPD, must exceed 15 percent of the households in a franchise area to meet the second prong of the 50/15

programming compatibility component of the competing provider effective competition test.”).

¹⁸ The DBS Providers satisfy the program comparability standard regardless of whether they provide local-into-local service to the Franchise Area. *See Falcon Telecable*, 17 FCC Rcd 22842, ¶ 4 (Med. Bur. 2002) (Four Texas Communities) (“[T]he Commission’s effective competition program comparability standard does not include a local television programming component.”).

¹⁹ See 47 C.F.R. § 76.905(b)(2)(i).

²⁰ See note 9.

²¹ See *Time Warner Entertainment Co., L.P., et al. v. FCC*, 56 F.3d 151 (D.C. Cir. 1995) (holding that the subscribership of all MVPDs, other than the largest MVPD, may be aggregated to satisfy the 15 percent threshold). *See also* 47 C.F.R. § 76.905(f).

test. As demonstrated below, Time Warner Cable's cable system meets this threshold with respect to ten of the Franchise Areas.²² Time Warner Cable is the largest MVPD in each of these Franchise Areas because it has the most video subscribers in each community.

Time Warner Cable has used the ZIP+4 methodology previously approved by the Commission in numerous decisions to calculate the DBS Providers' subscribership in the Franchise Areas.²³ Attached as Exhibit A is a report from Media Business Corp. ("MBC") which has identified all of the ZIP+4 zip codes that are encompassed, in whole or in part, by each of these Franchise Areas by using mapping software based on data derived from the U.S. Census Bureau and the U.S. Postal Service. Attached as Exhibit B are the Census 2010 occupied household figures for each of these Franchise Areas. Attached as Exhibit C are reports from the Satellite Broadcasting Communications Association ("SBCA"), which has been charged with the task of providing the required DBS Provider combined subscriber data for effective competition purposes, providing DBS Provider subscriber counts for each Franchise Area and each of the identified ZIP+4 zip codes. Based on this data and summarized in the following table, the DBS providers' subscriber penetration levels clearly exceed 15 percent in each of these Franchise Areas.

Community	DBS Provider Subscribership	2010 Census Occupied Households	DBS Provider Penetration
Angelica, Village of	86	353	24.36%
Avoca, Village of	58	351	16.52%
Bolivar, Village of	76	425	17.88%
Canaseraga, Village of	43	222	19.37%
Canisteo, Village of	154	908	16.96%

²² See attached Declaration of Rory Whelan, Regional Vice President of Governmental Relations – Northeast for Time Warner Cable.

²³ See, e.g., *Marcus Cable Associates, LLC d/b/a Charter Communications, Inc.*, DA 02-2174, 17 FCC Rcd 16652 (Media Bureau 2002) (Denton, Texas), aff'd 18 FCC Rcd 9762 (Media Bureau 2003); see also *Vicksburg Video, Inc. d/b/a Wehco Video, Inc.*, DA 02-2176, 17 FCC Rcd 16659 (Media Bureau 2002) (Vicksburg, Mississippi); *Kilgore Video, Inc. d/b/a Wehco Video, Inc.*, DA 02-2177, 17 FCC Rcd 16662 (Media Bureau 2002) (Kilgore, Texas); *Twelve Oregon Cities Order*.

Community	DBS Provider Subscribership	2010 Census Occupied Households	DBS Provider Penetration
Caton, Town of	308	829	37.15%
Cohocton, Village of	62	311	19.94%
Dundee, Village of	121	702	17.24%
Lindley, Town of	286	730	39.18%
North Hornell, Town of	48	297	16.16%

Consequently, Time Warner Cable has demonstrated that the second prong of the 50/15 effective competition test has been met for each of these Franchise Areas.

II. TIME WARNER CABLE ALSO SATISFIES THE “LOW PENETRATION” EFFECTIVE COMPETITION TEST IN THE REMAINING FOUR FRANCHISE AREAS.

In the remaining Franchise Areas (Angelica Town, Ceres, Clarksville and Wheeler), Time Warner Cable requests that the Commission additionally deem Time Warner Cable subject to effective competition under the separate “low penetration” effective competition test. Pursuant to Section 623(l)(1)(A) of the Act, effective competition exists under the low penetration test where “fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system.”²⁴ As demonstrated below, Time Warner Cable serves fewer than 30 percent of the households in each of these communities.

Community	Time Warner Cable Subscribership	2010 Census Occupied Households²⁵	Time Warner Cable Penetration
Angelica, Town of	11	580	1.90%
Ceres Township	73	365	20.00%
Clarksville, Town of	116	483	24.02%
Wheeler, Town of	9	466	1.93%

²⁴ 47 U.S.C. § 543(l)(1)(A); *see also* 47 C.F.R. § 76.905(b)(1).

²⁵ See Exhibit A.

As it serves less than 30 percent of the households in each of the listed communities, Time Warner Cable has demonstrated that it is subject to effective competition in these Franchise Areas under the low penetration test for effective competition.

CONCLUSION

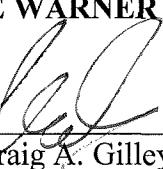
Because Time Warner Cable has demonstrated that it is subject to effective competition pursuant to Section 623(l)(1) of the Act and Section 76.905(b) of the Commission's rules for the above captioned Franchise Areas, Time Warner Cable respectfully requests that the Commission expeditiously find that Time Warner Cable's cable systems serving the Franchise Areas are not subject to rate regulation as to basic cable service or other forms of rate regulation specified in 47 U.S.C. § 543 and revoke the LFAs' certification to regulate basic rates as appropriate.

Undersigned counsel has read the foregoing Petition, and to the best of such counsel's knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and is not interposed for any improper purpose.

Respectfully submitted,

TIME WARNER CABLE INC.

By:



Craig A. Gilley

EDWARDS WILDMAN PALMER LLP
1255 23rd Street, N.W.
Eighth Floor
Washington, D.C. 20037
(202) 478-7370

Its Attorneys

Dated: November 30, 2012

DECLARATION

I, Rory Whelan, hereby declare under penalty of perjury that:

1. I am the Regional Vice President of Government Relations – Northeast for Time Warner Cable, the operator of the cable system that serves the specific Franchise Areas involved in the foregoing Petition for Special Relief ("Petition").
2. I have read the foregoing Petition and am familiar with the contents thereof and the matters referred to therein.
3. I have reviewed Time Warner Cable's respective cable subscriber numbers for each of the communities involved in the Petition, as well as the DBS subscriber numbers provided by SBCA and allocated to each as described in the Petition. Time Warner Cable is the largest multichannel video program provider serving each of the Franchise Areas.
4. The facts contained within the Petition are true and correct to the best of my knowledge, information and belief.

Date:

11/29/12

Rory Whelan

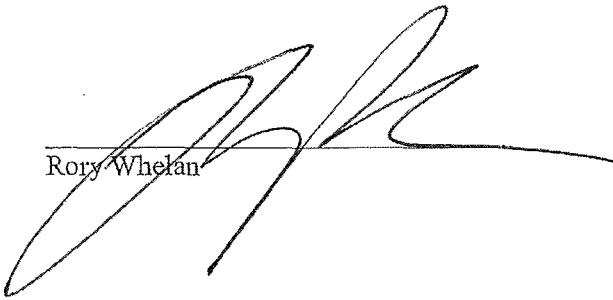
A handwritten signature in black ink, appearing to read "Rory Whelan". The signature is fluid and cursive, with a large, stylized 'W' being a prominent feature.

EXHIBIT A

Media Business Corp. Zip Code Identification Report

Franchise & ZIP+4 Identification

Data Documentation

Franchise: Cable operator's franchised service area

Franchise boundary file vintage : County Mar 2012 (source : Dynamap), MCD Mar 2012 (source : Dynamap), Place Mar 2012 (source : Dynamap)
Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.

FIPS: One of a series of codes, issued by the National Institute of Standards and Technology (NIST), assigned for the purpose of ensuring uniform identification of geographic entities throughout all Federal Government programs and agencies.

Each officially recognized Census place has its own unique 5-10 digit identifier. For more information, please see
<http://www.census.gov/geo/www/fips/fips.html>.

County: Census county in which the franchise resides

State: State in which the franchise resides

ZIP: United States Postal Service 5-digit ZIP code that covers, either in whole or in part, the cable operator's franchise area.

ZIP Code boundary file vintage : Mar 2012 (source : Dynamap)

Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.

PLUS4: USPS +4 extension to the 5-digit ZIP code. Using geocoding technology, and using only +4s that could be determined to be entirely within the cable operator's franchise area, MBC determined that each of the ZIP+4s on the tab(s) included in this repo

ZIP4: 5-Digit USPS ZIP code and 4-digit extension.

ZIP+4 boundary file vintage : Mar 2012 (source : Dynamap)

Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.

USPS Record Type: H - high-rise; F - firm; S - street; R - rural route/highway contract; P - post office box; G - general delivery.

* Type H Records (High Rises, Buildings, Apartments) are assigned a ZIP+4 centroid based on the actual address. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit ZIP centroid is assigned.

* Type F Records (Firms) are assigned a ZIP+4 centroid based on the actual address. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit centroid is assigned.

* Type S Records (Streets) are assigned a ZIP+4 centroid that falls on an address range. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit centroid is assigned.

* Type R Records (Rural Routes) are assigned ZIP+2 centroids if possible. In cases where this is not possible, a 5-digit centroid is assigned.

* Type P (P.O. Box) and Type G (General Delivery Records) are assigned a 5-digit centroid.

Centroid Type: Each record includes a centroid type code that indicates whether the ZIP+4 has been assigned a ZIP+4, ZIP+2 or 5-digit ZIP centroid.

* ZIP+4 - 1

* ZIP+2 - 2

* 5-digit ZIP - 3

* None - 0

Census 2010 HHS: Count of Census 2010 households by community. For Counties and Minor Civil Divisions (MCDs), HHS reflect count of community minus any incorporated areas within the larger franchise.

Copyright © 2011 SNL Kagan
1810 Platte St., Denver, CO 80202
Phone 303.271.9960
Fax 303.271.9965

System	Franchise	FIPS	County	State	ZIP	Plus4	ZIP+4
							12/03
000027	Alfred	3600301198	Allegany	NY	14802	1000	1480210000
000027	Alfred	3600301198	Allegany	NY	14802	1001	1480210001
000027	Alfred	3600301198	Allegany	NY	14802	1002	1480210002
000027	Alfred	3600301198	Allegany	NY	14802	1003	1480210003
000027	Alfred	3600301198	Allegany	NY	14802	1004	1480210004
000027	Alfred	3600301198	Allegany	NY	14802	1005	1480210005
000027	Alfred	3600301198	Allegany	NY	14802	1006	1480210006
000027	Alfred	3600301198	Allegany	NY	14802	1007	1480210007
000027	Alfred	3600301198	Allegany	NY	14802	1008	1480210008
000027	Alfred	3600301198	Allegany	NY	14802	1009	1480210009
000027	Alfred	3600301198	Allegany	NY	14802	1010	1480210010
000027	Alfred	3600301198	Allegany	NY	14802	1011	1480210011
000027	Alfred	3600301198	Allegany	NY	14802	1012	1480210012
000027	Alfred	3600301198	Allegany	NY	14803	1013	1480310013
000027	Alfred	3600301198	Allegany	NY	14803	1014	1480310014
000027	Alfred	3600301198	Allegany	NY	14803	1015	1480310015
000027	Alfred	3600301198	Allegany	NY	14803	1016	1480310016
000027	Alfred	3600301198	Allegany	NY	14803	1017	1480310017
000027	Alfred	3600301198	Allegany	NY	14803	1018	1480310018
000027	Alfred	3600301198	Allegany	NY	14802	1019	1480210019
000027	Alfred	3600301198	Allegany	NY	14802	1020	1480210020
000027	Alfred	3600301198	Allegany	NY	14802	1021	1480210021
000027	Alfred	3600301198	Allegany	NY	14802	1022	1480210022
000027	Alfred	3600301198	Allegany	NY	14802	1023	1480210023
000027	Alfred	3600301198	Allegany	NY	14802	1024	1480210024
000027	Alfred	3600301198	Allegany	NY	14802	1025	1480210025
000027	Alfred	3600301198	Allegany	NY	14802	1026	1480210026
000027	Alfred	3600301198	Allegany	NY	14802	1027	1480210027
000027	Alfred	3600301198	Allegany	NY	14802	1028	1480210028
000027	Alfred	3600301198	Allegany	NY	14802	1029	1480210029
000027	Alfred	3600301198	Allegany	NY	14803	1030	1480310030
000027	Alfred	3600301198	Allegany	NY	14802	1032	1480210032
000027	Alfred	3600301198	Allegany	NY	14802	1033	1480210033
000027	Alfred	3600301198	Allegany	NY	14802	1034	1480210034
000027	Alfred	3600301198	Allegany	NY	14802	1035	1480210035
000027	Alfred	3600301198	Allegany	NY	14803	1036	1480310036
000027	Alfred	3600301198	Allegany	NY	14802	1037	1480210037
000027	Alfred	3600301198	Allegany	NY	14802	1038	1480210038
000027	Alfred	3600301198	Allegany	NY	14802	1039	1480210039
000027	Alfred	3600301198	Allegany	NY	14802	1040	1480210040
000027	Alfred	3600301198	Allegany	NY	14802	1041	1480210041
000027	Alfred	3600301198	Allegany	NY	14802	1042	1480210042
000027	Alfred	3600301198	Allegany	NY	14802	1043	1480210043
000027	Alfred	3600301198	Allegany	NY	14802	1044	1480210044
000027	Alfred	3600301198	Allegany	NY	14802	1045	1480210045
000027	Alfred	3600301198	Allegany	NY	14802	1046	1480210046
000027	Alfred	3600301198	Allegany	NY	14802	1047	1480210047
000027	Alfred	3600301198	Allegany	NY	14802	1048	1480210048
000027	Alfred	3600301198	Allegany	NY	14802	1049	1480210049
000027	Alfred	3600301198	Allegany	NY	14803	1050	1480310050
000027	Alfred	3600301198	Allegany	NY	14803	1056	1480310056
000027	Alfred	3600301198	Allegany	NY	14802	1107	1480211007
000027	Alfred	3600301198	Allegany	NY	14803	1108	1480311008
000027	Alfred	3600301198	Allegany	NY	14802	1109	1480211009
000027	Alfred	3600301198	Allegany	NY	14802	1110	1480211010

000027 Wayland	3610178850 Steuben	NY	14572	9716	145729716
000027 Wayland	3610178850 Steuben	NY	14572	9729	145729729
000027 Wayland	3610178850 Steuben	NY	14572	9735	145729735
000027 Wayland	3610178850 Steuben	NY	14572	9736	145729736
000027 Wayland	3610178850 Steuben	NY	14572	9749	145729749
000027 Wayland	3610178850 Steuben	NY	14572	9753	145729753
000027 Wayland	3610178850 Steuben	NY	14572	9755	145729755
000027 Wayland	3610178850 Steuben	NY	14572	9756	145729756
000027 Wayland	3610178850 Steuben	NY	14572	9757	145729757
000027 Wayland	3610178850 Steuben	NY	14572	9758	145729758
000027 Wayland	3610178850 Steuben	NY	14572	9759	145729759
000027 Wayland	3610178850 Steuben	NY	14572	9761	145729761
000027 Wayland	3610178850 Steuben	NY	14572	9762	145729762
000027 Wayland	3610178850 Steuben	NY	14572	9763	145729763
000027 Wayland	3610178850 Steuben	NY	14572	9764	145729764
000027 Wayland	3610178850 Steuben	NY	14572	9765	145729765
000027 Wayland	3610178850 Steuben	NY	14572	9766	145729766
000027 Wayland	3610178850 Steuben	NY	14572	9775	145729775
000027 Wayland	3610178850 Steuben	NY	14572	9777	145729777
000027 Wayland	3610178850 Steuben	NY	14572	9783	145729783
000027 Wayland	3610178850 Steuben	NY	14572	9784	145729784
000027 Wayland	3610178850 Steuben	NY	14572	9785	145729785
000027 Wayland	3610178850 Steuben	NY	14572	9998	145729998

EXHIBIT B

2010 Census Household Population

GCT-PL2 - New York: Population and Housing Occupancy
2010 Census Redistricting Data (Public Law 94-171)

NOTE: For information on confidentiality protection,
nonsampling error, and definitions, see
<http://www.census.gov/prod/cen2010/pl94-171.pdf>

NOTE: Change to the California, Connecticut, Mississippi, New
Hampshire, Virginia, and Washington P. L. 94-171 Summary
Files as delivered.

Geographic area	Total	Housing units		
		Total	Occupied	Vacant
Angelica town, Allegany County	1,403	836	580	256
Caton town, Steuben County	2,179	891	829	62
Clarksville town, Allegany County	1,161	953	483	470
Lindley town, Steuben County	1,967	807	730	77
Wheeler town, Steuben County	1,260	691	466	225

GCT-PL2 - New York: Population and
2010 Census Redistricting Data (Public)

NOTE: For information on confidentiality
protection, nonsampling error, and
definitions, see
<http://www.census.gov/prod/cen2010/pl94-171.pdf>

NOTE: Change to the
California, Connecticut, Mississippi, New
Hampshire, Virginia, and Washington P. L.
94-171 Summary Files as delivered.

Geographic area	Total	Housing units		
		Total	Occupied	Vacant
Angelica village	869	397	353	44
Avoca village	946	393	351	42
Bolivar village	1,047	483	425	58
Canaseraga village	550	248	222	26
Canisteo village	2,270	987	908	79
Cohocton village	838	358	311	47
Dundee village	1,725	774	702	72
North Hornell village	778	335	297	38

GCT-PL2 - Pennsylvania: Population and Housing
2010 Census Redistricting Data (Public Law 94-
171) Summary File

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/pl94-171.pdf>

NOTE: Change to the California, Connecticut, Mississippi, New Hampshire, Virginia, and Washington P. L. 94-171 Summary Files as delivered.

Geographic area	Total	Housing units		
		Total	Occupied	Vacant
Pennsylvania	12,702,379	5,567,315	5,018,904	548,411
Ceres township, McKean	905	472	365	107

Source: U.S. Census Bureau, 2010 Census.
2010 Census Redistricting Data (Public Law 94-
171) Summary File, Tables P1 and H1

EXHIBIT C

SBCA Effective Competition Tracking Reports

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Angelica, NY	86

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Avoca, NY	58

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Bolivar, NY	76

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Canaseraga, NY	43

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Canisteo, NY	154

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Caton, NY	308

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Cohocton, NY	62

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Dundee, NY	121

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for Lindley, NY	286

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

ECTR – Effective Competition Tracking Report



Provided by
Satellite Broadcasting and Communications Association

Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated November 2, 2012 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: November 5, 2012

ZIP Codes	DTH Count
Requested total for North Hornell, NY	48

Data is current through 9/30/2012

Report Prepared by:
Martin Esteves
Manager, Membership and Data Management
202-349-3630
mesteves@sbc.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

CERTIFICATE OF SERVICE

I, Glenda Thompson, a secretary at the law firm of Edwards Wildman Palmer LLP, hereby certify that, on this 30th day of November, 2012, copies of the foregoing "Petition for Special Relief" were sent via first-class mail, postage prepaid, to the following:

William Lake, Esq.*
Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Pantelis Michalopoulos, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
Counsel for EchoStar Communications Corp.

Angelica, Village of
Mayor Robin Robbins
21 Peacock Hill Road
Angelica, NY 14709

Mayor Dan Fuller
Bolivar, Village of
252 Main Street
Bolivar, NY 14715

Mayor William Tucker
Canisteo, Village of
8 Green Street
Canisteo, NY 14823

Supervisor Ronald Truax
Clarksville, Town of
2980 School Street
West Clarksville, NY 14786

Mayor Fred Cratsley
Dundee, Village of
12 Union Street
Dundee, NY 14837

Mayor John Falci
North Hornell, Village of
4 West Maplewood Avenue
Hornell, NY 14843

William M. Wiltshire, Esq.
Harris, Wiltshire & Grannis LLP
1200 Eighteenth Street, N.W., Suite 1200
Washington, D.C. 20036-2506
Counsel for DirectTV, Inc.

Angelica, Town of
Supervisor Robert Jones
49 Park Circle
Angelica, NY 14709

Mayor Michael Robbins
Avoca, Village of
3 Chase Street
Avoca, NY 14809

Mayor Robert Ames
Canaseraga, Village of
10 Main Street
Canaseraga, NY 14822

Supervisor Katherine Hughes
Caton, Town of
11161 Hendy Hollow Road
Corning, NY 14830

Mayor Thomas Cox
Cohocton, Village of
28 Maple Avenue
Cohocton, NY 14826

Supervisor Gerald Simcoe
Lindley, Town of
637 US Route 15
Lindley, NY 14858

Supervisor Douglas Towner
Wheeler, Town of
6429 Gardner Road
Bath, NY 14810

Supervisor Kerry Mulkin
Ceres Township
12 Barberville Road
Shinglehouse, PA 16748

*Via ECFS



Glenda V. Thompson